

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the foregoing amendments and the following remarks.

No claims have been canceled by this response. No claims have been added by this response. Claims 17, 20, 24, 25, 27, 28 and 31 have been amended. Thus, claims 17, 18-22, 24-33, 35 and 36 remain pending in the present application, of which claims 17, 27 and 28 are independent.

Acknowledgement of Priority Document Receipt Requested

A certified copy of the priority document was submitted on April 13, 2004. To date, no official acknowledgement of the USPTO's receipt of the certified copy of the priority document has been noted in the prosecution history. In other words, none of boxes 12.a.1, 12.a.2 and 12.a.3 has been checked on the Summary page (form PTOL-326) of Office Action. The undersigned has no reason to believe that this circumstance implies anything other than a minor oversight on the part of the USPTO. Accordingly, official acknowledgement of the USPTO's receipt of the certified copy of the priority document is hereby respectfully requested.

Noted - IDS Considered

The indication (see Examiner-initialed PTO from 1449 mailed with Office Action dated April 25, 2008) that the Information Disclosure Statement (IDS) as filed on November 14, 2007 and references listed therein have been considered is noted with appreciation.

Noted - Drawings Approved

The indication (see Office Action Summary of Office Action dated May 10, 2007, box 10(a)) that the Drawings (submitted on April 13, 2004) have been approved is noted with appreciation.

Claim Rejection Under 35 U.S.C. §103

Claims 17, 18, 20, 21, 24, 25, 27-29, 31, 32, 35 and 36 are rejected under 35 U.S.C. §103(a) as being unpatentable over Keller et al. (U.S. Patent No. 5,752,032, hereafter Keller) in view of IBM Inc.'s "Cryptographic Microcode loading Controller for Secure Function", hereafter IBM.

INDEPENDENT CLAIM 17

As an example, amended independent claim 17 recites (among other things) the following features.

an access control unit to determine, when the input command is included in the set of commands corresponding to the current operation mode, whether a necessary resource to execute the input command is included or not in an available set of resources corresponding to the current operation mode, and to prohibit access to the necessary resource if the necessary resource is not included in the available set of resources; and

an execution unit to execute, when the necessary resource is included in the available set of resources, the input command by using the firmware or the logic circuit in conjunction with the necessary resource. (Underlining is added for emphasis.)

As will be explained below, at least these features of amended claim 17 distinguish over both Keller and IBM, and thus over the combination of Keller and IBM.

The Office Action admits at numbered paragraph 4 that Keller does not disclose subject matter relating to the necessary resource to execute the input command. Therefore, it should be appreciated that Keller does not teach the above noted features of the access control unit and the execution unit of amended claim 17 relating to the necessary resource.

Instead, the Office Action relies on IBM to cure the deficiencies of Keller noted in numbered paragraph 4 of the Office Action. IBM recites the following:

On power-up, reset, or specific command, this common part of the ROM would load encrypted microcode into a micro code RAM or EEPROM, decrypt it, and begin execution. The microcode could be loaded on existing I/O lines or use a dedicated load path if desired. To allow the decryption of the microcode, the microcontroller must have the decryption key for the code. (page 2, full paragraph 4)

However, the recitation of IBM does not refer to determining whether a necessary resource to execute the input command is included or not in an available set of resources corresponding to the current operation mode, and prohibiting access to the necessary resource if the necessary resource is not included in the available set of resources.

Hence, at least the features of amended claim 17, namely "an access control unit to determine, when the input command is included in the set of commands corresponding to the current operation mode, whether a necessary resource to execute the input command is included or not in an available set of resources corresponding to the current operation mode, and to prohibit access to the necessary resource if the necessary resource is not included in the available set of resources; and an execution unit to execute, when the necessary resource is included in the available set of resources, the input command by using the firmware or the logic circuit in conjunction with the necessary resource," provide a distinction over IBM. (Underlining is added for emphasis)

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of amended claim 17 noted above, at least one claimed element is not present in the asserted combination of references. Hence, the Office Action fails to establish a *prima facie* case of obviousness against claim 17.

Amended independent claims 27 and 28 differ from amended claim 17, but recite features similar to the above-noted features of amended claim 17 that provide a distinction over both Keller and IBM. Accordingly, claims 27 and 28 distinguish over both Keller and IBM based on at least the features of claims 27 and 28 that are similar to the above-noted features of claim 17. Thus, the Office Action also fails to establish a *prima facie* case of obviousness against claims 27 and 28. Claims 18-22,

24-26, 29-33, 35 and 36 ultimately depend from one of claims 17, 27 and 28, and so at least similarly distinguish over the asserted combination of references.

In view of the foregoing discussion, the rejection of claims 17, 18, 20, 21, 24, 25, 27-29, 31, 32, 35 and 36 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 19 and 30 are rejected under 35 U.S.C. § 103(a) as unpatentable over Keller in view of IBM and further in view of Heinonen et al (U.S. Patent No. 6,633,758, hereafter Heinonen); Claims 22 and 33 are rejected under 35 U.S.C. §103(a) as unpatentable over Keller in view of IBM and further in view of Nevis et al. (U.S. Patent No. 6,581,159, hereafter Nevis); and Claim 26 is rejected under 35 U.S.C. §103(a) as unpatentable over Keller in view of IBM, further in view of Biondi et al. (U.S. Patent No. 6,622,246, hereafter Biondi), and further in view of Gregory et al. (U.S. Patent No. 5,748,488, hereafter Gregory).

Each of claims 19, 22, 26, 30, and 33 ultimately depend from one of independent claims 17, 27 and 28. A basis for how both Keller and IBM are deficient in teaching at least the above noted features of claims 17, 27 and 28 has been noted above. Furthermore, the Office Action does not rely upon any of the secondary references of Heinonen, Nevis, Biondi and Gregory to compensate for the deficiencies in Keller and IBM. Hence, the above-noted features of claims 17, 27 and 28 are distinctive over these secondary references.

In view of the foregoing discussion, the rejection of claims 19, 22, 26, 30 and 33 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

PATENT

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Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 50-4610.

Respectfully submitted,

Dated: September 25, 2008

By /Scott A. Elchert/

Scott A. Elchert
Registration No.: 55,149
Phone: 202-285-4177

FUJITSU AMERICA, INC.
Fujitsu Patent Center
PTO Customer No.: 79326